

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF LABOR STANDARDS ENFORCEMENT

Headquarters Office

45 Fremont Street, Suite 3250
San Francisco, CA 94105
(415) 975-2080
(415) 975-0772 Fax



GARY HERMANN
REDDING
SENIOR DEPUTY

Office of the
State Labor Commissioner

February 16, 1999

Mr. Charley M. Stoll
Law Offices of Charley M. Stoll
711 Daily Drive, Suite 115
Camarillo, California 93010

RE: Request for Information on Employee Rest Periods

Dear Mr. Stoll:

I am responding to your letter of February 8, 1999, requesting that I clarify the meaning of "or major fraction thereof," in Section 12 (Rest Periods) of the Industrial Wage Orders. Your reading of this language to mean that an employer must provide its employees with a 10-minute rest period when the employees work any time over the midpoint of each four hour block of time is correct.

The Division of Labor Standards Enforcement (DLSE) has consistently adhered to the plain language of the Wage Order Rest Period provision. Rest periods are "based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof." The only exception to this 'major fraction of four hours' rule is clearly spelled out in Section 12. This exception provides that "a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 1/2) hours." (Emphasis added.)

The Division of Industrial Welfare (the predecessor to the DLSE) similarly interpreted the Wage Order Rest Period provision. In 1948, the Division of Industrial Welfare Chief concluded that:

Rest Periods - in the Orders shall be construed to mean that for each four hours (or majority fraction thereof) worked in a day the employee has earned the right to 10 minutes' rest time. That is, if the (employee) works more than 2 and up to 6 hours in a day, (the employee) is entitled to 10 minutes; if (the employee) works more than 6 and up to 10 hours in a day (the employee) is entitled to 20 minutes; if (the employee) works more than 10 and up to 14 hours in the day, (the employee) is entitled to 30 minutes, etc.¹

Rest periods lessen employee fatigue and, therefore, are beneficial both to the employee and the employer. The 'any time more than two hours' interpretation provides a bright line that makes employer compliance easier.

¹ Chief's Decisions, Section 1101: Rest Periods, *General Interpretation and Enforcement Procedure of the Orders and the Labor Code Sections*, Manual of Procedure, Division of Industrial Welfare, Department of Industrial Relations (1948).

1999.02.16

I hope this provides the clarification you were seeking. If you have any additional questions, please contact my office.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jose Milhan".

Jose Milhan
Chief Deputy Labor Commissioner

cc: Miles E. Locker, Chief Counsel
Assistant Chiefs
Senior Deputies

1999.02.16